

1 H. JOSEPH ESCHER, III (No. 85551)  
joseph.escher@dechert.com  
2 AMY THAYER (No. 266142)  
amy.thayer@dechert.com  
3 CARL GISMERVIG (No. 267930)  
carl.gismervig@dechert.com  
4 DECHERT LLP  
5 One Maritime Plaza Suite 2300  
San Francisco, California 94111-3513  
6 Telephone: (415) 262-4500  
7 Facsimile: (415) 262-4555

8 *Attorneys for Plaintiff*  
Dexter E. Dale

9  
10 KAMALA D. HARRIS  
Attorney General of California  
JOHN DEVINE  
11 Supervising Deputy Attorney General  
KAY K. YU  
12 Deputy Attorney General  
State Bar No. 142479  
13 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
14 Telephone: 415 703-5593  
Facsimile: 415 703-5480  
15 E-mail: Kay.Yu@doj.ca.gov

16 *Attorneys for Defendants*  
Fernandez and Lough

17  
18  
19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 SAN FRANCISCO DIVISION

22 DEXTER E. DALE,

23 Plaintiff,

24 v.

25 L. FERNANDEZ AND L. LOUGH

26 Defendants.

No. C 05-1842 JSW

**STIPULATION AND ~~PROPOSED~~  
ORDER TO HOLD DEPOSITIONS  
AFTER DISCOVERY CUTOFF  
AS MODIFIED**

Dept: Courtroom 11, 19<sup>th</sup> Floor  
Judge: The Hon. Jeffrey S. White

1 This Stipulation and [Proposed] Order To Hold Depositions After Discovery Cutoff is  
2 filed by Plaintiff and Defendants.

3 WHEREAS, on January 25, 2012, Kay Keeching Yu of the California State Attorney  
4 General's Office agreed to accept service of the deposition notice and subpoena on behalf of the  
5 Correctional Training Facility in Soledad, California ("CTF"). The parties disagree as to whether  
6 Kay Keeching Yu agreed to accept service of the document requests included within the  
7 deposition notice and subpoena.

8 WHEREAS, on January 25, 2012 Plaintiff served by hand delivery the notice of  
9 deposition and subpoena to CTF pursuant to Federal Rules of Procedure 30(b)(6) ("Rule  
10 30(b)(6)") and 45 ("Rule 45") for a deposition to take place on February 24, 2012.

11 WHEREAS, on or about January 25, 2012 Plaintiff's counsel began meeting and  
12 conferring with Defense counsel regarding dates for the depositions of Defendants Lough and  
13 Fernandez.

14 WHEREAS, on February 14, 2012, Plaintiff noticed depositions for Defendant Lough on  
15 February 23, 2012 and for Defendant Fernandez for February 28, 2012 per the agreement of  
16 counsel.

17 WHEREAS, on February 22, 2012 Defense counsel informed Plaintiff's counsel that  
18 CTF's Rule 30(b)(6) witness would be available to be deposed on March 7, 2012 and Defendant  
19 Lough would be available to be deposed on March 9, 2012. Defense counsel has not requested an  
20 extension of time for the production of documents pursuant to Rule 45.

21 WHEREAS, pursuant to the Order Scheduling Trial and Pretrial Matters the Court set  
22 March 1, 2012 as the last day for non-expert discovery;

23 WHEREAS, allowing depositions after the discovery cutoff will not affect the current trial  
24 schedule.

1  
2 IT IS HEREBY STIPULATED AND AGREED SUBJECT TO APPROVAL OF THE  
3 COURT THAT:

4 Plaintiff may hold the depositions of Defendant Lough and CTF's Rule 30(b)(6) witness  
5 after the discovery cutoff date of March 1, 2012.

6  
7 Dated: February 27, 2012

Respectfully submitted,

8  
9 DECHERT LLP  
10 H. JOSEPH ESCHER III  
11 AMY THAYER  
12 CARL GISMERVIG

13 By: Amy Thayer  
14 AMY THAYER

Counsel for Plaintiff DEXTER DALE

15 CALIFORNIA STATE ATTORNEY GENERAL'S  
16 OFFICE

17 By:   
18 KAY KEECHING YU

19 Counsel for Defendants L. FERNANDEZ and  
20 L. LOUGH

21 If this stipulation resolves the issues presented by Plaintiff's motion for an  
22 extension of discovery, Plaintiff should submit a notice to that effect to the  
23 IT IS SO ORDERED. Court.

24 March 1, 2012

25   
26 THE HONORABLE JEFFREY S. WHITE  
27 United States District Judge  
28